

**CVR BOARD MEETING MINUTES**  
**August 27, 2008**

Marlene Gonzales  
Chet Loftis  
Michael Madsen  
Brent Scharman  
Rod Snow  
Louise Speth  
Karen Watkins

Ron Gordon  
Gary Scheller  
Liz Benns  
JoAnn Huber  
Mark McDermott  
Lori Radcliff  
Dana Thomas

Patti Jensen  
Connie Wettlaufer  
Dave Walsh

Louise Speth convened the meeting at 9:00 a.m.

1. Minutes of the May 21, 2008 Board meeting were approved.
2. Introduction of New Reparation Officer Ron Gordon  
Ron introduced CVR's new Reparation Officer Mark McDermott. Mark came to CVR from the Tax Commission. He is a good addition to the office.
3. Review of Claims (Closed Meeting)  
**A motion was made by Louise Speth, seconded by Chet Loftis, to close the meeting for the review of claims. Motion passed. All in favor.**

A. Claim Number 153269

Dana Thomas

There was a \$50,000 settlement on this claim of which the victim personally received \$25,399.79. She used the \$25,399.79 to pay her monthly bills and living expenses as she has not been able to work due to her injuries. The settlement funds have now been exhausted. The victim owns an upholstery business and recently has started to work again, but very sporadically. There are outstanding medical bills of \$611.11. The victim has indicated she will need surgery on her shoulder and anticipates ongoing medical expenses due to the crime. She applied for Medicaid in Oregon but was denied because Oregon Medicaid is currently only accepting children. The Reparation Officer recommended the Board consider paying the current outstanding medical bills and allow the claim to be left open so the victim can use the remaining funds for ongoing medical expenses. **A motion was made and seconded to approve the recommendation of the Reparation Officer. Motion passed. All in favor. None opposed.**

B. Claim Number 135239

Gary Scheller

This case was originally presented at the May 21, 2008 meeting. At that time, the Board requested more information be obtained from the attorney before a decision be made. Gary presented the requested information. The subrogation reduction request is for the total amount CVR has paid, \$13,197.28. **After discussion, the Board agreed to reduce the lien by \$6,418.44 and requested the balance of the settlement, \$6,778.84, be sent to CVR to satisfy the victim's lien with this office. The Board also clarified further reduction of the amount will not be considered on this claim.**

C. Claim Number 158991

Gary Scheller

Victim's attorney obtained a \$150,000 settlement from the offender's insurance company. To date CVR has paid \$10,069.67. The attorney is requesting CVR reduce its lien by \$5,000. **A motion was made and seconded to deny the request for a subrogation reduction. Motion passed. All in favor. None opposed.**

D. Claim Number 159946

Mark McDermott

The victim became paralyzed as a result of a gunshot wound. The victim's doctor has recommended that he use a specialized bed. Medicaid will cover only a hospital type bed and not the specialized mattress being recommended. The claim was brought before the Board because the maximum for Medically Necessary Devices has been exhausted. The request is for \$3,486.80 to cover the cost of a mattress and adjustable foundation. **A motion was made and seconded to approve the request of \$3,486.80 to purchase the mattress and foundation. Motion passed. All in favor. None opposed.**

**A motion was made by Karen Watkins, seconded by Michael Madsen, to reopen the meeting. Motion passed. All in favor.**

4. Open and Public Meetings Act Training

Ron Gordon

Ron provided the yearly training on the Open and Public Meetings Act as required by Utah Statute 52-4-104. The Crime Victim Reparations Board constitutes a public body and must adhere to the requirements of this chapter. CVR must post the Board meeting agenda 24 hours in advance of a meeting at the CVR office and must notify at least one newspaper in general circulation. The State has created a new Public Meeting Notice website that public bodies will be required to use beginning October 1, 2008. Posting on the website will fulfill the newspaper notification requirement. Emergency meetings must be posted as soon as practically possible. All Board meetings must be recorded and written minutes created that contain a summary of all discussion items, as well as a record of each vote. State law provides a few circumstances where meetings may be closed to the public. CVR Board meetings are closed when the character, professional competence or physical or mental health of an individual will be discussed. A motion to close the meeting must be passed by the Board members and an affidavit must be signed by the Board Chair every time a meeting is closed. Public notice is also required for electronic meetings such as conference calls.

Ron gave a brief description of the different types of record classifications. Every record has a classification under the Government Records and Access Management Act. The classification types are private, protected and controlled. All information in the victim claim files is at a minimum private; nothing in a claim file would be considered a public document.

5. CVR Fund Report

Ron Gordon

Ron presented the FY08 Trust Fund Report. Total expenditures were \$12,068,343 with revenues totaling \$9,780,919. As of June 30, 2008, the Trust Fund Balance was around 6 million dollars, a decrease of 1.5 million from the close of FY07. The Legislature continues to take 2.5 million dollars each year, with 1.9 million dollars going to CCJJ to cover administrative costs and \$750,000 going to the Department of Corrections to help pay for the Diagnostics Unit. CVR still has enough funds for normal operation but the reserve account continues to go down. Ron explained the history behind the funding of CCJJ and the DOC Diagnostics Unit. In FY 2003 the reserve account was at 15.5 million dollars and the Legislature thought it was too high so they purposely funded CCJJ and DOC Diagnostics Unit out of the Victims Trust Fund. This was to have been a one time funding but it has continued each year since that time. Requests have been made each year to stop the funding of CCJJ and DOC Diagnostics Unit from the Trust Fund. Ron said that State revenues do not look good this year and the Governor has restricted the type of requests that can be made to the Legislature. CVR will not be allowed to request restoration of these funds this session. Although all this has not affected normal operations yet, Ron explained that we do not want to get to the point where victims have to be placed on a waiting list. If cost containment measures become necessary, Ron would prefer implementing them in ways such as the medical fee schedule the Board is currently considering. Ron will continue to watch the situation closely. The Board is required by statute to provide Other Victim Services grant funds when there is a sufficient reserve on hand. Sufficient reserve is defined as enough funds to sustain the operation of CVR, administrative costs and victim payouts, for one year. The Other Victim Services grant program has been suspended because by rule CVR does not have a sufficient reserve to fund

6. Medical Fee Schedule

Ron Gordon

House Bill 312, sponsored by State Representative Julie Fisher, passed during the last Legislative session. The bill gives the Crime Victim Reparations Board the authority to implement a medical fee schedule. Also, it requires any medical provider who accepts payment from CVR to accept the payment as payment in full and not balance bill the victim as long as the payment was made in accordance with CVR administrative rules. The legislation specifically authorizes the use of the PEHP fee schedules. PEHP has already provided its fee schedules with the condition the schedules not be shared with others. The Board discussed at length some of the options available such as using an established fee schedule, creating a specialized CVR fee schedule, using an established fee schedule with an additional percentage added on, using a straight percentage discount for both physicians and hospitals, considering a different schedule for rural and urban areas, and using a Third Party Provider. Ron said the Hospital Association had a very strong preference that CVR continue with a percentage of billed charges. They also wanted to make sure the physicians were included in whatever the Board does. The Medical Association asked that the hospitals be included and that CVR not implement the lowest of all possible fee schedules. Ron asked the Board to keep in mind the administrative aspects such as the number of staff available, the fact that CVR is still a completely paper based office, and the difficulty that could be created if there were many separate agreements. It was decided to meet with a TPA to obtain input and advice. Staff will do a pilot program tracking some medical codes from different insurance companies to see how they compare to PEHP. An interim plan will be put into place as soon as possible while the Board contemplates the ultimate solution. Ron would like to have something in place by the end of the calendar year and suggested that the Board take the formal step of creating an administrative rule which would give providers a chance to comment on the change. The rule would take 30 additional days before it would become effective. **A motion was made and seconded to draft an interim administrative rule that will state CVR will pay all medical claims at 70% of billed charges and to notify interested parties that we are working on a permanent solution. Motion passed. All in favor. None opposed.**

7. Medically Necessary Devices

Ron Gordon

Administrative Rule R270-1-14, Essential Personal Property, was discussed. The rule covers personal articles necessary and essential for the health and safety of the victim up to a maximum of \$1500. Some of the items covered under this rule are eyeglasses, hearing aids, burglar alarms, and door locks. Ron explained that medically necessary devices such as special bathtub and shower equipment and wheelchairs also fall under the \$1,500 cap. He asked the Board to consider whether essential personal property and medically necessary devices should be separate categories with separate caps. After discussion the Board decided they should be different categories: Essential Personal Property and Medically Necessary Items with a maximum allowed of \$5000 for Medically Necessary Items. Ron explained he would need to create a new administrative rule and amend the existing rule. Ron will prepare drafts of the rules for presentation at the next meeting.

8. Subrogation Policy

Ron Gordon

The Board reviews all subrogation reduction requests received by CVR. There have been occasions when there was not enough information for the Board to make a decision. Ron asked the Board if there were policies they would like to have in place to ensure staff is getting sufficient information to present when talking about subrogation. Ron suggested at a bare minimum the attorney should provide CVR with the settlement amount, attorney fees, and information regarding any other lien holders, and, if this information is not received, the case would not be brought before the Board. Ways to improve communication with claimants and attorneys regarding CVR's subrogation rights were discussed. Some suggestions were: (1) when a request is received, staff should send a letter to the attorney informing him that the settlement funds should not be dispersed without consideration of CVR's lien; (2) include language on CVR correspondence that would inform the claimant of his responsibility to inform CVR of any lawsuits or settlements; (3) develop more ways to notify claimants or attorneys of CVR's right to subrogation; (4) check the Court Exchange once a month for crimes most likely to have lawsuits such as DUI claims; and (5) if CVR learns of a lawsuit or

settlement, make contact with the attorney regarding subrogation rights, amount of CVR's lien, and the criteria the Board looks for when considering the reduction of a lien.

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9. Collateral Sources Ron Gordon /Gary Scheller  
Ron passed out copies of statute numbers 63M-7-512, 63M-7-513 and 63M-7-519 for review in relationship to the question of whether life insurance should be considered a collateral resource. The Board also reviewed the Assignment of Recovery statement that appears on the back of the CVR application form. **A motion was made and seconded that CVR would not consider life insurance as a collateral source. Motion passed. All in favor. None opposed.**
10. Reunification Sessions Ron Gordon  
The question of payment for reunification sessions was discussed. Dr. Scharman explained that reunification is an important part of resolution for the offender. The offender reaches out to the victim sometimes by writing a letter or meeting with the victim. It is a common part of the process, but the victim must be the one in control. It is sometimes mandated by the court that some type of reunification session be completed before the offender is allowed to return to the home. Ron said the question to be considered is whether it is victim treatment or offender treatment and should CVR pay for the treatment. No formal action was taken. The Board provided the following guidelines for staff when considering payment. Treatment notes from the reunification session should be obtained to ensure the session was in the best interest of the victim, the victim's therapist was present, and the treatment was for the victim.

The next meeting is scheduled to be held on November 12, 2008.

The meeting was adjourned.